IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Income Tax Appeal No.668 of 2005
Date of decision: October 16, 2006

M/s Munjal Sales Corporation, Ludhiana

v.

Commissioner Income Tax, Central Circle-I, Ludhiana and another

Present: Mr. Akshay Bhan, Advocate for the appellant.
Mr. S.K.Garg Narwana, Advocate for the respondents.

CORAM:
Hon'ble Mr.Justice Adarsh Kumar Goel
Hon'ble Mr. Justice Rajesh Bindal

Rajesh Bindal, J.

This appeal by the assessee is directed against order dated 29.7.2005, passed by the Income-tax Appellate Tribunal, Chandigarh Bench `B' (for short, `the Tribunal') in I.T.A. No. 536/CHANDI/2000, for the assessment year 1997-98, raising the following substantial questions of law:

> "(i) Whether in the facts and circumstances of the present case, order vide Annexures A.1 to A.3 are based on mis-appreciation of facts and law involved in the case and liable to be set aside, especially when the provisions of Section 36(1)(iii) of the Income Tax Act, 1961 are not applicable in the instant case ?
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> (ii) Whether in the facts and circumstances of the case, the action of the authorities below in disallowing the interest being 15% of the total amount of interest free loan advanced by the appellant to its sister concern, without consideration of this important fact that the assessee/appellant is earning profits of more than 1 crore and therefore the interest free loan is far below than the amount of profit earned in the relevant assessment year 97-98, is liable to be set aside ?
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> (iii)Whether the action of the authorities below in disallowing the interest free loan so advanced by the appellant to its sister concern without specifying as to from which claim of interest paid, the disallowance has been made, is unsustainable and liable to set aside ?
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> (iv) Whether in the facts and circumstances of the present case, the action on the part of the authorities below in disallowing the interest

for the relevant AY 97-98 without any change in the circumstances, when the same was allowed during the previous year i.e. AY 93-94, is legally sustainable in the eyes of law ?

(v) Whether the action of the authorities below acting of its own presumption is legally sustainable ?

(vi) Whether in the facts and circumstances of the present case, the advancement of the interest free loan by the assessee/appellant to its sister concern, is in due course of business, is legally sustainable ?

(vii) Whether the action of the assessing officer in excluding its jurisdiction by acting merely on its presumption and right in the eyes of law ?

(viii) Whether in the facts and circumstances of the case, Annexures A.1 to A.3 are legally sustainable ?

The assessee, in the present case, was in appeal before the Tribunal on account of disallowance of interest on interest free loans given to sister concerns for non-business purposes to the extent of Rs. 4,734/- and Rs. 32,940/-. The Tribunal rejected the appeal of the assessee relying upon its earlier order passed for the assessment years 1995-96 and 1996-97.

We have dealt with the plea of the assessee against the orders passed for the assessment years 1995-96 and 1996-97 in I.T.A. Nos. 666 and 667 of 2005 respectively and following the law laid down by this Court in Commissioner of Income-Tax v. Abhishek Industries Ltd., (2006) 286 ITR 1, have rejected the appeals by separate order passed today.

For the reasons stated therein, we do not find that any substantial question of law arises in the present appeal as well. The same is accordingly dismissed.

(Rajesh Bindal)
Judge

(Adarsh Kumar Goel)
Judge

October 16, 2006
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